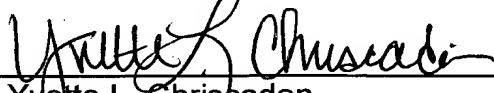


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By:


Yvette L. Chriscaden

Date: June 1, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

App. No. : 09/783,608 Confirmation No.: 9399
Inventor : Brian Roundtree
Filed : February 15, 2001
Title : RENDERING DATA USING RENDERING
INSTRUCTIONS BASED UPON CONCEPT
IDENTIFIERS FOR THE DATA
Art Unit : 2141
Examiner : Luu, Le Hein
Customer No. : 25,943

MAIL STOP: APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RESUBMISSION OF APPELLANT'S BRIEF IN SUPPORT OF APPELLANT'S
APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Dear Sir:

This is a re-submission of Appellant's Brief in response to the Order Returning Undocked Appeal to Examiner mailed on May 18, 2006 by the Board of Patent Appeals and Interferences. The deficiency has been corrected. This appeal furthers the Notice of Appeal filed on July 19, 2005. The appeal arises from a final decision by the Examiner in the final Office Action, dated April 21, 2005. The final decision was in response to arguments filed on October 18, 2004, in response to an earlier office action, mailed July 9, 2004.

Appellants re-submit this *Brief on Appeal*. Payment in the amount of \$500.00 to cover the fee for filing the *Brief on Appeal* was tendered with the original submission. Appellants respectfully request consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the present patent application.

Real Party in Interest:

This application is assigned to Action Engine, Inc., having a principal place of business at 8520 154th Avenue NE, Redmond, Washington 98052. The assignment is recorded at the United States Patent and Trademark Office, reel 011565, frame 0483.

Related Appeals and Interferences:

To the best of Appellants' knowledge, there are no related appeals or interference proceedings currently pending, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

Status of Claims:

Appellants appeal the rejection of claims 1-20. Claims 1-20 were pending and were rejected in the Final Office Action dated April 21, 2005. Claims 1-20 are reproduced, as pending, in Appendix A.

Status of Amendments:

Appellants have made no amendments subsequent to the Examiner's final rejection.

Summary of the Claimed Subject Matter:

Independent claim 1 is directed towards *a method for rendering data on a user device* that comprises "receiving the data at the user device along with one or more concept identifiers identifying a plurality of rendering instructions; retrieving the rendering instructions based at least in part on one or more the concept identifiers; and rendering the data on the user device, using the rendering instructions." Figure 5 illustrates a flowchart of selected operations of an example user device performing the operations recited in claim 1. Figure 5 is described in detail on page 16, line 5

through page 20, line 5, in accordance with some embodiments. Element 12 of Figure 1 illustrates one example of a requestor user device performing the operations recited in claim 1. Element 12 of Figure 1 is described in detail on page 7, line 13 through page 9, line 16, in accordance with some embodiments.

Independent claim 11 is directed towards *an apparatus* which, in substance, is claim 1 in apparatus form. Therefore, support can be found in the same figures and passages in the specification enumerated in the immediately preceding paragraph. Further, additional support can be found in Figure 4 and its corresponding description on page 13, line 16 through page 16, line 3. Figure 4 illustrates an exemplary wireless device capable of performing the operations recited in claim 1, in accordance with some embodiments.

Grounds For Rejection To Be Argued On Appeal:

- I. Claims 1, 5-10, 11, and 15-20 stand rejected under 35 U.S.C. §102(b) over the teachings of U.S. Patent No. 5,748,188 to *Hu, et al.* (hereinafter "HU").
- II. Claims 2-4 and 12-14 stand rejected under 35 U.S.C. § 103(a) over the teachings of HU, and in further view of RFC 1-866 for Hypertext Markup Language – 2.0 by T. Berners Lee and D. Connolly (hereinafter "RFC1866").

Arguments:

- I. Rejection of claims 1, 5-10, 11, and 15-20 under 35 U.S.C. §102(b) was improper because HU failed to teach each and every limitation.

It is well settled that anticipation under 35 U.S.C. §102 requires the disclosure in a single piece of prior art to teach **each and every** limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052, 32 USPQ2d 1017, 1019 (Fed. Cir. 1994). . MPEP 2131 states, "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM" and "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Furthermore, anticipation requires that each claim element must be identical to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995). Thus, to anticipate the present invention, HU must disclose every element recited in the pending claims.

HU fails to anticipate, *inter alia*, at least the required operations of claim 1:

- (a) receiving one or more concept identifiers identifying a plurality of rendering instructions;
- (b) retrieving the rendering instructions based at least in part on one or more of the concept identifiers; and
- (c) rendering the data on the user device using the rendering instructions.

By way of contrast, the disclosure in HU relied upon by the final Office Action (col. 23, lines 46-53) merely teaches of a client **12** generating a graph by:

- (a) running a parser against graph elements received,
- (b) creating an object,
- (c) copying the parsed results into the object, then
- (d) executing a viewer which passes the object to a graph server.

HU, Col. 26, lines 36-54, further teaches that the graph server may also convert the "output" to a format that allows the "output" to be viewed by any browser with bit-map viewing capabilities. The final Office Action attempts to equate "graph attributes" of HU with "concept identifiers". However, the "graph attributes" of HU merely specify "properties" of a graph to be rendered such as a graph's "width", "height" and so forth. The ability to specify different attributes of a graph does not inherently teach or anticipate that different instructions are invoked to render graphs with different attributes. The same set of instructions can be used to render a graph of W x L vs 2W x 2L, by e.g. simply looping through the instructions 2x to generate

2x the number of pixels. Thus, HU's graph attributes do not anticipate the required **"concept identifiers"**, which **"identify"** rendering instructions to be **"retrieved"** and **"executed"** as set forth in claim 1.

Therefore, it further follows that HU does not teach or anticipate the operations of **"retrieving** the rendering instructions ...based on the received **concept identifiers"**, and **"rendering** the data ... using the **retrieved instructions"** as required by claim 1.

Accordingly, claim 1 is patentable over HU under 102(b).

Claim 11 contains in substance the same limitations as claim 1; and thus, for at least the reasons stated above, claim 1 is patentable over HU.

Claims 5-10 and 15-20 depend from either Claim 1 or 11, incorporating its limitations. Therefore, for at least the same reasons, Claims 5-10 and 15-20 are patentable over HU.

II. Rejection of claims 2-4 and 12-14 under 35 U.S.C. §103(a) was improper because HU, in view of RFC1866, failed to teach each and every limitation.

RFC1866 does not remedy the above-discussed deficiency of HU. Therefore, claims 1 and 11 remain patentable over HU even when combined with RFC1866.

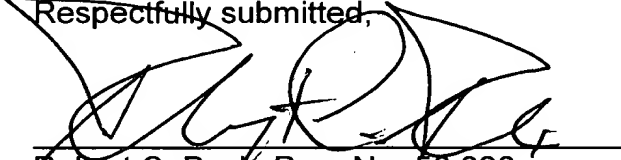
Claims 2-4 and 12-14 depend on either Claims 1 or 11, incorporating their limitations. Therefore, for at least the same reasons, Claims 2-4 and 12-14 are patentable over HU and RFC1866 combined.

Conclusion

Appellant respectfully submits that all the appealed claims in this application are patentable and requests that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This brief is re-submitted. We do not believe any additional fees, in particular extension of time fees, are needed. However, should that be necessary, please charge our deposit account 500393. In addition, please charge any shortages and credit any overages to Deposit Account No. 500393.

Date: June 1, 2006

Respectfully submitted,

Robert C. Peck, Reg. No. 56,826
Agent for Appellant Applicants

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Appendix A – Appealed Claims

1. (Previously Presented) A method for rendering data on a user device, comprising:
 - receiving the data at the user device along with one or more concept identifiers identifying a plurality of rendering instructions;
 - retrieving the rendering instructions based at least in part on one or more the concept identifiers; and
 - rendering the data on the user device, using the rendering instructions.
2. (Previously Presented) The method of claim 1, further including:
 - identifying interactive elements associated with some or all of the data; and
 - setting the interactive elements according to their associated data and rendering the interactive elements using the rendering instructions.
3. (Previously Presented) The method of claim 2, further including:
 - detecting selection of one of the interactive elements;
 - retrieving interaction rules associated with the interactive element; and
 - re-rendering the interactive elements using the interaction rules.
4. (Previously Presented) The method of claim 3 wherein the re-rendering includes retrieving additional data from a remote server using at least in part the selection of the interactive element.
5. (Previously Presented) The method of claim 1 wherein the receiving includes receiving along with the data, one or more corresponding tags representing the one or more concept identifiers.
6. (Previously Presented) The method of claim 5 wherein the rendering includes parsing the data for presentation according to the rendering instructions.
7. (Previously Presented) The method of claim 1 wherein the retrieving includes locally retrieving the rendering instructions at the user device.

8. (Previously Presented) The method of claim 1 wherein the rendering includes formatting an appearance of a visual element using some of the data.

9. (Previously Presented) The method of claim 8 wherein the formatting includes selecting, using the rendering instructions, at least one from the group consisting of a particular color for presenting the visual element, a particular icon for presenting the data, the positioning of the visual element, or a particular symbol for presenting the visual element.

10. (Previously Presented) The method of claim 1 wherein the retrieving includes selecting the rendering instructions based at least in part on a type of the user device.

11. (Previously Presented) An apparatus for rendering data on a user device, comprising:

- a receive module for receiving data at the user device along with one or more concept identifiers identifying a plurality of rendering instructions;

- a retrieve module retrieving the rendering instructions based at least in part on the concept identifiers; and

- a render module rendering the data on the user device, using the rendering instructions.

12. (Previously Presented) The apparatus of claim 11, further including:

- a module for identifying interactive elements associated with some or all of the data; and

- a module for setting the interactive elements according to their associated data and rendering the interactive elements using the rendering instructions.

13. (Previously Presented) The apparatus of claim 12, further including:

- a module for detecting selection of one of the interactive elements;

- a module for retrieving interaction rules associated with the interactive element; and

a module for re-rendering the interactive elements using the interaction rules.

14. (Previously Presented) The apparatus of claim 13 wherein the module for re-rendering includes a module for retrieving additional data from a remote server using at least in part the selection of the interactive element.

15. (Previously Presented) The apparatus of claim 11 wherein the receive module includes a module for receiving along with the data, one or more and corresponding tags representing the one or more concept identifiers.

16. (Previously Presented) The apparatus of claim 15 wherein the render module includes a module for parsing the data for presentation according to the rendering instructions.

17. (Original) The apparatus of claim 11 wherein the retrieve module includes a module for locally retrieving the rendering instructions at the user device.

18. (Currently Amended) The apparatus of claim 11 wherein the render module includes a module for formatting an appearance of a visual element using some of the data.

19. (Currently Amended) The apparatus of claim 18 wherein the module for formatting includes a module for selecting, using the rendering instructions, at least one from the group consisting of a particular color for presenting the visual element, a particular icon for presenting the visual element, positioning of the data, or a particular symbol for presenting the visual element.

20. (Currently Amended) The apparatus of claim 11 wherein the retrieve module includes a module for selecting the rendering instructions based at least in part on a type of the user device.

Appendix B – Copies of Evidence Submitted

No evidence has been submitted under 37 C.F.R. 1.130, 1.131, or 1.132. No evidence entered by Examiner has been relied upon by Appellants in the appeal.

Appendix C – Related Proceedings

There are no related appeals or interference proceedings currently pending, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.



AT EWN

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/783,608
	Filing Date	February 15, 2001
	First Named Inventor	Brian Roundtree
	Art Unit	2141
	Examiner Name	Luu, Le Hein
Total Number of Pages in This Submission	Attorney Docket Number	109927-130479

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
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Typed or printed name	Yvette L. Chriscaden	Date	June 1, 2006

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